

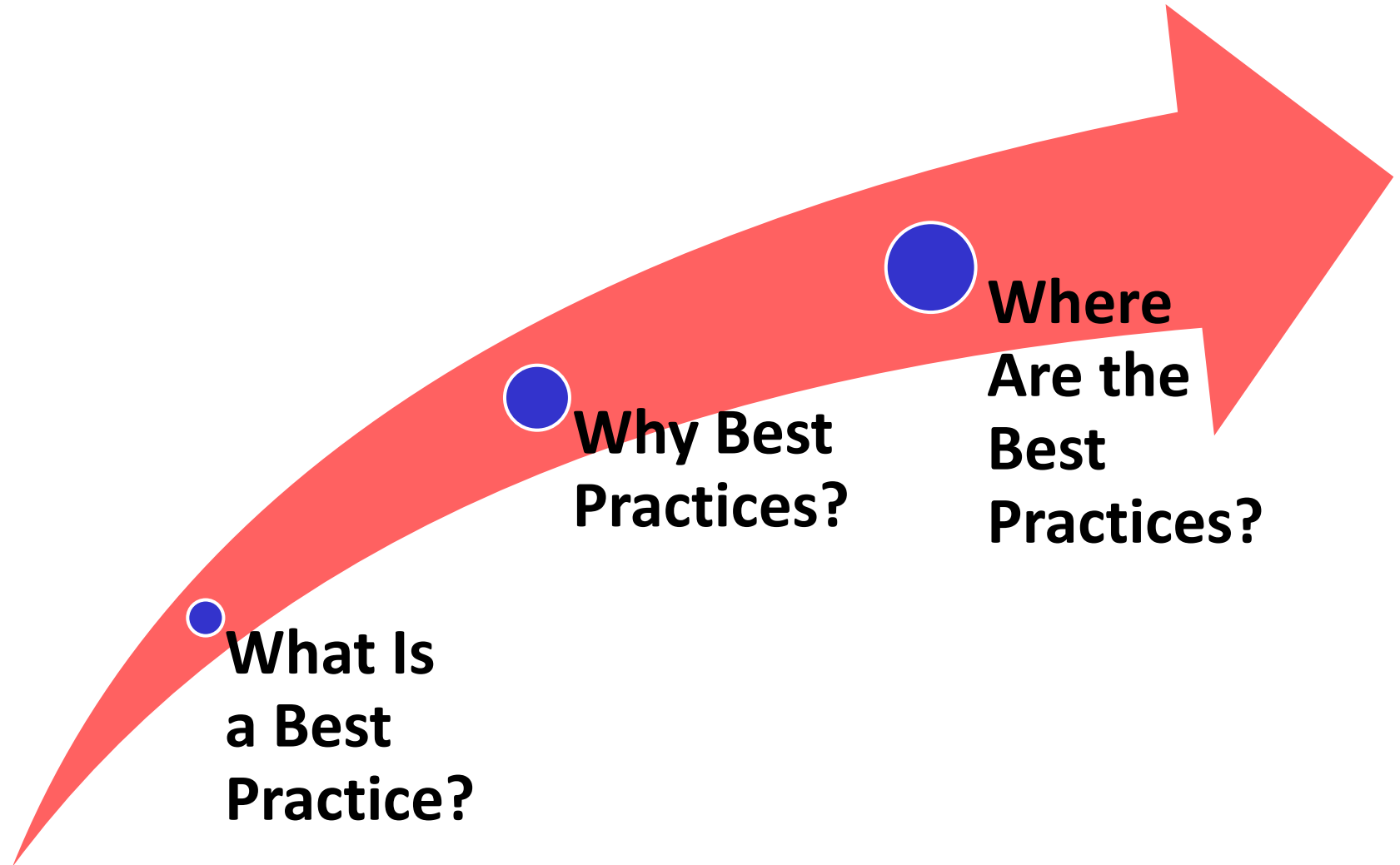
# Best Notary Practices

**William A. Anderson**

Vice President of Best Practices and eNotarization

# Presentation Goals

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# What Is a Best Practice?

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**Best Practice** \ Best Prak təs \ *noun*

1. A higher standard for performing notarial acts that over time has proven effective in preserving the integrity of documentary transactions and protecting the public from fraud.

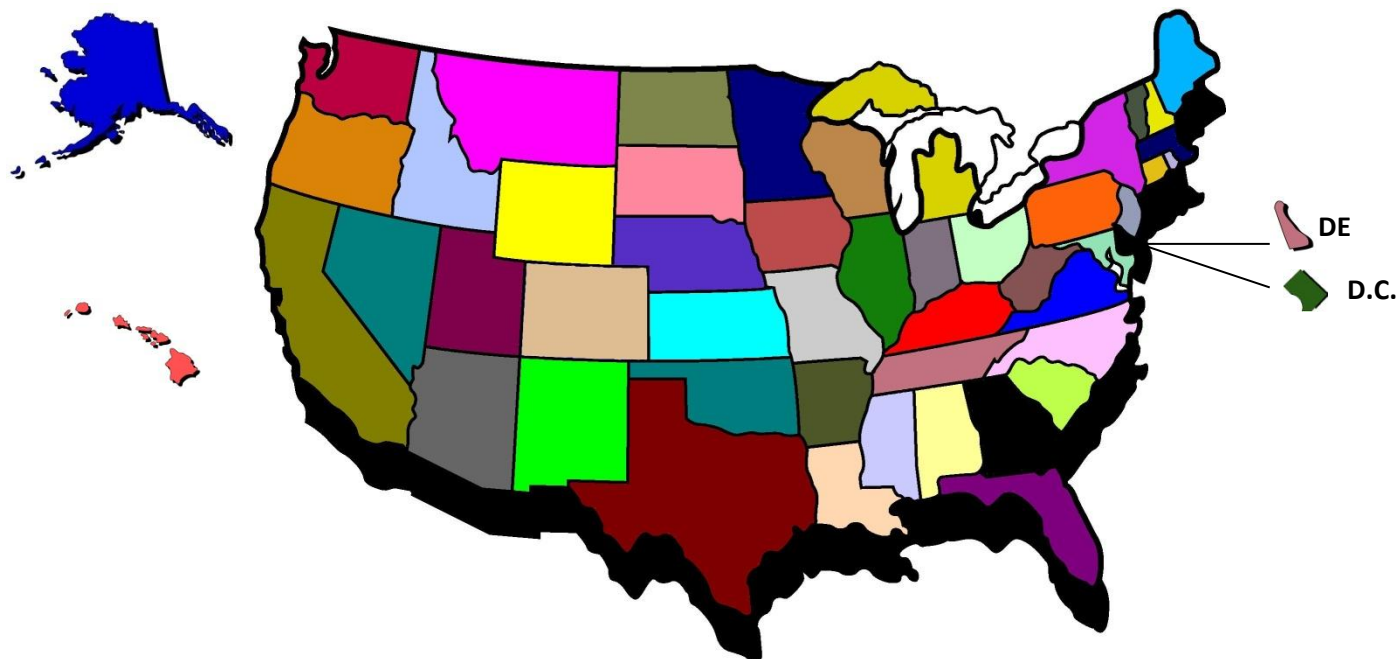
# Best Practice: Four Key Elements

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# Notary Laws vs. Best Practices

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- Every state has some best practices
- No one state has all of the best practices
- Every state falls short; some more than others

# Why Best Practices?

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**“People don’t follow best practices when they don’t have enough to lose.”**

***-- Response to Blog***

**Why Do We Ignore “Best Practices”?**

<http://blogs.harvardbusiness.org/hbr/cramm/2009/08/are-we-failing-theory-or-is-th.html>

# Why Best Practices?

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**“Every new neurosurgery intern has to make the joke about the patient having an ‘open mind,’ but then they get over it.”**

# Why Best Practices?

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## Brain Surgery

- Brain surgery is risky if you don't do it right

## Handling Explosives

- Explosives are deadly if you mishandle them

## Notarizing Documents

- Notarizing improperly is dangerous to the public



# *Vancura v. Katris*

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## **Facts of the Case**

- **Forgery and improper notarization of a release deed and assignment of mortgage**

## **Notary Misconduct**

- **Notary “identified” signer by checking a photo-less ID and comparing signatures**

## **Outcome of the Case**

- **Notary: Settled for \$30,000**
- **Kinkos: Found liable \$110,000+**
- **Appealed to Illinois Supreme Court**

# *Vancura v. Katris* and Notaries

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## **Notary Is Responsible and Potentially Liable**

- **The failure of an employer to train and supervise will not absolve the Notary from a duty to perform notarizations properly and the repercussions of not notarizing correctly**

# *Vancura v. Katris* and Notaries

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## Minimum Standard of Care Not Sufficient

- Following the statutes as the *only* guide to the proper performance of notarial acts may not be enough

# *Vancura v. Katris* and Notaries

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## A New Standard of Care Must Be Applied

- Notaries must follow a higher professional standard of care when laws are unclear or fall short of providing needed guidance

# Overview of Code of Responsibility

## Guiding Principles (10)

Serve  
Witness  
Screen  
Fraud  
Law  
UPL  
Seal  
Journal  
Privacy  
Learn

## Standards of Practice (85)

I-A-1

II-E-1

V-B-1

X-C-1

## Illustrations

Ethical  
Imperative

Professional  
Choice

# Example of Best Practice

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## ► Guiding Principle II

The Notary shall act as an impartial witness and not profit or gain from any document or transaction requiring a notarial act, apart from the fee allowed by statute.

## ► Standard II-C-1: Compromise of Impartiality

The Notary shall decline to notarize in any transaction that would impugn, compromise or call into question the Notary's impartiality or propriety, or has the potential for doing so.

# Example of Best Practice

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## ► Illustration

The Notary is asked by the godmother of the Notary's children to notarize a document that will create a trust fund to benefit the children. The godmother will endow the trust with her own funds. The Notary is not mentioned in the document.

# Example of Best Practice

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## ► Course of action

The Ethical Imperative: The Notary declines to notarize, since impartiality and undue influence may otherwise become issues in a transaction that will greatly benefit the Notary's own children. The Notary asks the godmother to have an uninvolved person notarize the document.



# Example of Best Practice

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## ▶ **Guiding Principle IV**

The Notary shall not execute a false or incomplete certificate, nor be involved with any document or transaction that is false, deceptive or fraudulent.

## ▶ **Standard IV-C-1: Completion by Notary Essential**

The Notary shall personally prepare or verify all information and insertions on a notarial certificate, and allow no other person to affix the Notary's official signature and seal.

# Example of Best Practice

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## ► Illustration

The Notary is asked by a stranger to notarize the person's signature on a document. The Notary notices, however, that the document's notarial certificate wording has been filled in beforehand with an incorrect venue.

# Example of Best Practice

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## ► Course of action

The Professional Choice: Before completing the certificate, the Notary corrects its venue by lining through the inappropriate state and county, then right above printing the state and county in which the notarization is actually being performed. After initialing the venue changes, the Notary completes the certificate.

# NNA Contact Information

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- ▶ **Download Notary Public Code at:**  
**[www.nationalnotary.org](http://www.nationalnotary.org)**
  - > **Best Practices**
  - > **Code of Responsibility**
- ▶ **Contact me at:**  
**[banderson@nationalnotary.org](mailto:banderson@nationalnotary.org)**
- ▶ **For complementary membership contact:**  
**[alconference@nationalnotary.org](mailto:alconference@nationalnotary.org)**

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